

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GWENDOLYN D. GABRIEL and
BARBARA J. GABRIEL,

Plaintiffs,

V.

THE DALLAS COUNTY CIVIL COURT
SYSTEM, ET AL.,

Defendants.

No. 3:19-cv-3003-M-BN

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiffs Gwendolyn D. Gabriel and Barbara J. Gabriel bring this *pro se* action against the State of Texas, its Attorney General, the State Commission on Judicial Conduct, the Dallas County civil courts, and a Dallas County state judge, requesting as relief, in part, that this Court command “the State to Void the Judgments” in two state court proceedings. Dkt. No. 3.

Their case has been referred to the undersigned United States magistrate judge for pretrial management under 28 U.S.C. § 636(b) and a standing order of reference from Chief Judge Barbara M. G. Lynn.

After reviewing their complaint, the Court ordered that Plaintiffs show in writing that the Court has subject matter jurisdiction over their lawsuit. *See* Dkt. No. 5. Plaintiffs responded by filing an amended complaint. *See* Dkt. No. 6.

Considering the initial filing and the amended complaint, the undersigned enters these findings of fact, conclusions of law, and recommendation that the Court

should dismiss this action without prejudice for lack of subject matter jurisdiction.

“Within constitutional bounds, Congress decides what cases the federal courts have jurisdiction to consider.” *Bowles v. Russell*, 551 U.S. 205, 212 (2007); *see also Stockman v. Fed. Election Comm’n*, 138 F.3d 144, 151 (5th Cir. 1998) (“Federal courts are courts of limited jurisdiction, and absent jurisdiction conferred by statute, lack the power to adjudicate claims.”). Correspondingly, federal courts have an independent duty to examine their own subject matter jurisdiction. *See Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583-84 (1999) (“Subject-matter limitations ... keep the federal courts within the bounds the Constitution and Congress have prescribed. Accordingly, subject-matter delineations must be policed by the courts on their own initiative even at the highest level.” (citations omitted)).

Because Plaintiffs chose to file their lawsuit in federal court, it is their burden to establish federal jurisdiction. *See Butler v. Dallas Area Rapid Transit*, 762 F. App’x 193, 194 (5th Cir. 2019) (per curiam) (“[A]ssertions [that] are conclusory [] are insufficient to support [an] attempt to establish subject-matter jurisdiction.” (citing *Evans v. Dillard Univ.*, 672 F. App’x 505, 505-06 (5th Cir. 2017) (per cuiam); *Jeanmarie v. United States*, 242 F.3d 600, 602 (5th Cir. 2001))). And if they do not, this lawsuit must be dismissed. *See* FED. R. CIV. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

Under their limited jurisdiction, federal courts generally may only hear a case if it involves a question of federal law or where diversity of citizenship exists between the parties. *See* 28 U.S.C. §§ 1331, 1332. In diversity cases, each plaintiff’s citizenship

must be diverse from each defendant's citizenship, and the amount in controversy must exceed \$75,000. *See* 28 U.S.C. § 1332(a), (b). Federal question jurisdiction under Section 1331 "exists when 'a well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law.'" *Borden v. Allstate Ins. Co.*, 589 F.3d 168, 172 (5th Cir. 2009) (quoting *Franchise Tax Bd. v. Constr. Laborers Vacation Tr.*, 463 U.S. 1, 27-28 (1983)). "A federal question exists 'if there appears on the face of the complaint some substantial, disputed question of federal law.'" *In re Hot-Hed Inc.*, 477 F.3d 320, 323 (5th Cir. 2007) (quoting *Carpenter v. Wichita Falls Indep. Sch. Dist.*, 44 F.3d 362, 366 (5th Cir. 1995)).

The Court will not assume it has jurisdiction. Rather, "the basis upon which jurisdiction depends must be alleged affirmatively and distinctly and cannot be established argumentatively or by mere inference." *Getty Oil Corp. v. Ins. Co. of N.A.*, 841 F.2d 1254, 1259 (5th Cir. 1988) (citing *Ill. Cent. Gulf R. Co. v. Pargas, Inc.*, 706 F.2d 633, 636 & n.2 (5th Cir. 1983)); *see also MidCap Media Fin., L.L.C. v. Pathway Data, Inc.*, 929 F.3d 310, 313 (5th Cir. 2019) ("Because federal courts have limited jurisdiction, parties must make 'clear, distinct, and precise affirmative jurisdictional allegations' in their pleadings." (quoting *Getty Oil*, 841 F.2d at 1259)).

It is evident that Plaintiffs' claims stem from at least two state court proceedings, the judgments of which they request this Court to void. *See* Dkt. No. 3 at 18. As such, their claims implicate "the *Rooker-Feldman* doctrine" – "a narrow jurisdictional bar ... designed to prevent lower federal courts from exercising

jurisdiction over matters that are exclusively reserved for Supreme Court review under 28 U.S.C. § 1257.” *Gross v. Dannatt*, 736 F. App’x 493, 494 (5th Cir. 2018) (per curiam) (citing *Lance v. Dennis*, 546 U.S. 459, 464, 463 (2006) (per curiam); citation omitted).

Put differently, federal-court authority to review a state court’s judgment lies exclusively with the United States Supreme Court. *See Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 292 (2005) (“Because § 1257, as long interpreted, vests authority to review a state court’s judgment solely in this Court, the District Courts in *Rooker* and *Feldman* lacked subject-matter jurisdiction.” (citations omitted)); *see also Hale v. Harney*, 786 F.2d 688, 691 (5th Cir. 1986) (“Judicial errors committed in state courts are for correction in the state court systems, at the head of which stands the United State Supreme Court.”); *Griggs v. Chickasaw Cnty., Miss.*, 930 F.3d 696, 702 (5th Cir. 2019) (“The doctrine ‘directs that federal district courts lack jurisdiction to entertain collateral attacks on state court judgments,’” as opposed to attacks on state administrative or legislative proceedings. (quoting *Kam v. Dallas Cnty.*, 756 F. App’x 455, 455 (5th Cir. 2019) (per curiam); emphasis omitted)).

Under this doctrine, a federal district court lacks jurisdiction to consider “cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon*, 544 U.S. 280 at 284; *see Johnson v. De Grandy*, 512 U.S. 997, 1005-06 (1994) (“under [*Rooker-Feldman*] a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party’s claim that

the state judgment itself violates the loser’s federal rights” (citing *D.C. Ct. App. v. Feldman*, 460 U.S. 462, 482 (1983); *Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 416 (1923)); *Houston v. Queen*, 606 F. App’x 725, 730 (5th Cir. 2015) (stating that there are four elements to the *Rooker-Feldman* doctrine: “(1) a state-court loser; (2) alleging harm caused by a state-court judgment; (3) that was rendered before the district court proceeding began; and (4) federal suit requests review and reversal of the state-court judgment.”); *see also Truong v. Bank of Am., N.A.*, 717 F.3d 377, 382 (5th Cir. 2013) (“Reduced to its essence, the *Rooker-Feldman* doctrine holds that inferior federal courts do not have the power to modify or reverse state court judgments’ except when authorized by Congress.” (quoting *Union Planters Bank Nat’l Ass’n v. Salih*, 369 F.3d 457, 462 (5th Cir. 2004))).

“A plaintiff cannot ‘circumvent this jurisdictional limitation by asserting claims not raised in the state court proceedings or claims framed as original claims for relief,’ if these claims are ‘inextricably intertwined with a state judgment.’” *Turner v. Cade*, 354 F. App’x 108, 111 (5th Cir. 2009) (per curiam) (quoting *United States v. Shepherd*, 23 F.3d 923, 924 (5th Cir. 1994); citation and internal quotation marks omitted).

The United States Court of Appeals for the Fifth Circuit has “held ‘that litigants may not obtain review of state court actions by filing complaints about those actions in lower federal courts cast in the form of civil rights suits’” and that, moreover, “[t]he only federal recourse for constitutional questions arising in state court proceedings is application for writ of certiorari to the United States Supreme Court.” *Id.* (quoting *Hale*, 786 F.2d at 690-91, then citing *Liedtke v. State Bar of Tex.*, 18 F.3d 315, 317 (5th

Cir. 1994)).

Plaintiffs acknowledge this bar to subject matter jurisdiction in their amended complaint: “We understand that Federal courts do not have the power to modify or reverse state court judgments except when authorized by Congress. But when evidence exists that a Judge and its oversight Agencies have violated Federal Law and OBSTRUCTED JUSTICE, Congress should authorize such power.” Dkt. No. 6 at 20. And they amend their claims to allege violations of federal criminal statutes, citing 18 U.S.C. §§ 4 and 1503. *See, e.g.*, Dkt. No. 6 at 19-20.

But, even if a federal criminal statute may apply here, Plaintiffs may “not assert a valid basis for federal question jurisdiction” by relying “on federal criminal statutes only,” *Robinson v. Pulaski Tech. Coll.*, 698 F. App’x 859 (8th Cir. 2017) (per curiam) (citations omitted), as they have “no standing to institute a federal criminal prosecution and no power to enforce a criminal statute,” *Savannah v. United States*, No. 3:07-cv-2052-O, 2009 WL 1181066, at *2 (N.D. Tex. Apr. 30, 2009) (citing *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973); *United States v. Batchelder*, 442 U.S. 114, 124 (1979)); *see also McKeague v. Matsuura*, Civ. No. 08-00571 ACK-KSC, 2009 WL 89112, at *2 (D. Haw. Jan. 12, 2009) (citing “a handful of federal criminal statutes ... fails to sufficiently demonstrate that [a plaintiff’s] claims arise under federal law” (citation omitted)).

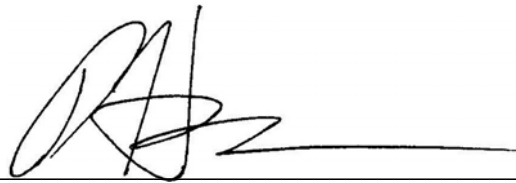
Plaintiffs have thus failed to show that the Court possesses subject matter jurisdiction over their claims. The Court should therefore dismiss this action without prejudice.

Recommendation

The Court should dismiss this action without prejudice under Federal Rule of Civil Procedure 12(h)(3).

A copy of these findings, conclusions, and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions, and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions, and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

DATED: March 5, 2020

A handwritten signature in black ink, appearing to be 'D. Horan', written over a horizontal line.

DAVID L. HORAN
UNITED STATES MAGISTRATE JUDGE